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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE SUSAN ILLSTON, JUDGE

UNITED STATES OF AMERICA,)

PLAINTIFF,)

VS.)

DANIEL DAVID,)

DEFENDANT.)

NO. CR 02-0062 SI

MONDAY, MARCH 8, 2004

TUESDAY, MARCH 9, 2004

WEDNESDAY, MARCH 10, 2004

SAN FRANCISCO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFF:

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BY: THOMAS F. CARLUCCI, ESQUIRE
RUSSELL L. CARLBERG, ESQUIRE

REPORTED BY:

DIANE E. SKILLMAN, CSR 4909
OFFICIAL COURT REPORTER

1 HEARD THE WAY THE REGULATIONS ARE SET UP, BECAUSE PAYPHONE
2 OPERATORS ALLOW THE PUBLIC TO USE THEIR TELEPHONES TO CALL 800
3 NUMBERS WITHOUT HAVING THEM PUT A CARD IN OR MONEY IN, THE
4 AGREEMENT IS THAT THOSE PAYPHONE OPERATORS WILL BE REIMBURSED
5 FOR ALLOWING THAT USE OF THEIR TELEPHONE. AND THE REGULATIONS
6 PROVIDE FOR 24 CENTS TO BE PAID BY THE LONG-DISTANCE CARRIER TO
7 THE PAYPHONE OPERATOR WHEN SOMEONE CALLS AN 800 NUMBER.

8 THAT 24 CENTS IS PAID BY THE LONG-DISTANCE CARRIER,
9 SOMETIMES THROUGH AN AGGREGATER AND IS BILLED ULTIMATELY, OF
10 COURSE, TO THE TOLL-FREE TELEPHONE SUBSCRIBER BILLED AT
11 26 CENTS PLUS.

12 NOW, MR. DAVID HAD TO PRETEND TO BE ONE OF THESE
13 BUSINESS PEOPLE WHO WAS PROVIDING A SERVICE TO THE PUBLIC BY
14 HAVING THE PAYPHONE AVAILABLE AND WAS EXPECTING REASONABLE
15 COMPENSATION FOR THAT. IF HE TOLD THE TRUTH ABOUT WHAT HE WAS
16 REALLY DOING, WHICH IS, OF COURSE, CONTRARY TO THE WHOLE
17 REGULATORY SCHEME, HE WOULD NEVER GET PAID. SO, TO GET PAID,
18 YOU HAVE TO PRETEND, YOU HAVE TO LIE, YOU HAVE TO DECEIVE.

19 LET'S START WITH THE DECEPTION AT THE BEGINNING.
20 THE FIRST THING YOU HAVE TO DO TO MAKE THIS SCHEME WORK IS TO
21 GET PAYPHONE LINES. PATTI GROSSMAN TESTIFIED FROM PACIFIC
22 BELL, AND SHE SAID THAT THIS CHART WAS BASED ON HER REVIEW OF
23 THE VOLUMINOUS TELEPHONE COMPANY RECORDS.

24 LET'S TAKE A LOOK AT WHAT THE TELEPHONE COMPANY HAD
25 IN THEIR RECORDS AND WAS RELYING UPON. WELL, THEY LEASED A